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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/074,288	05/07/1998	TONY M. POKORZYNSKI	PRI01P-739	1982

277 7590 01/27/2003

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JOHNSON, JERRY D

ART UNIT	PAPER NUMBER
1764	

DATE MAILED: 01/27/2003

33

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 33

Application Number: 09/074,288

Filing Date: May 07, 1998

Appellant(s): POKORZYNSKI ET AL.

Gunther J. Evanina
For Appellant

EXAMINER'S ANSWER

MAILED

JAN 27 2003

GROUP 1/00

This is in response to the appeal brief filed November 15, 2002.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 1 and 6 will stand or fall together and claims 2-4 and 7 –10 will stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *ClaimsAppealed*

A substantially correct copy of appealed claim 2 appears on page 1 of the Appendix to the appellant's brief. The minor errors are as follows: In line 2 of claim 2 of the Appendix, the term "wherein" should be replaced with "where and".

(9) Prior Art of Record

5,082,609	ROHRALCH et al.	01-1992
5,180,617	TAKEUCHI et al.	01-1993

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 6-10 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Rohrlach et al.

Rohrlach et al, U.S. Patent 5,082,609, teach a method of production of a moulded panel, wherein a rigid substrate supports a finished panel surface, and for example is particularly applicable to, but not limited to, a door inner panel for a motor vehicle (column 1, lines 4-8). The production of a panel having a finish face, a substrate and a lamina of moulded polyurethane between the two is formed in a single closable die having two portions, the first stage of the operation being to spray an aliphatic polyurethane coloured film onto a release agent of one die portion, and spray an elastomer polyurethane over that film and allow to at least partially set, lay a sheet of reinforcing fibres which can for example be a continuous filament glass fibre over the liquid ingredients of a rigid foam polyurethane over the reinforcing fibres, close the mould, and remove the product after setting. Alternative materials such as fabric, carpet, or alternative

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facing film material may be applied subsequently in lieu of, or as well as, the aliphatic polyurethane (column 1, lines 37-55).

Claims 1-4 and 6-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Takeuchi et al.

Takeuchi et al, U.S. Patent 5,180,617, teach a vehicle interior finishing panel so constructed that a foam base material into which a mat-shaped fiber reinforcing material is inserted is integrally molded on the back side of a facing material (column 2, lines 12-22). In one embodiment, the facing material is set in the lower mold element with its front side down. Next, the impregnated sheet material is set on the backside portion of the facing material. Then fiber reinforcing material is set on the facing material and the impregnated sheet material. Thereafter the molding material such as hard urethane foam is fed on the fiber reinforcing material and the upper mold element closed, and the mold is heated to foam the molding material to mold it into a given shape (column 5, lines 4-22). See Figure 7. The fiber reinforcing material is made of glass fiber or the like (column 2, lines 25-31). The porous sheet material is composed of fiber glass, synthetic fiber or other porous foam materials and has permeability (column 3, lines 41-43). In another embodiment, the facing material is set in the lower mold element with its front side down. Next the fiber reinforcing material is set on the facing material. Thereafter, the molding material such as hard urethane foam is fed onto the fiber reinforcing material, then the upper mold element is closed, and the mold is heated to foam the molding material (column 6, lines 1-11). See Figure 11.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takeuchi et al.

Takeuchi et al teach that a porous sheet material 9 is placed in convex areas of a trim piece to prevent fibrous material 1 from pulling away from the convex portions of a panel when the mold is closed. While Takeuchi et al do not disclose a trim piece wherein the porous sheet material 9 is “substantially coextensive” with the upholstery skin material, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form a convex shaped trim piece wherein the porous sheet was “substantially coextensive” with the face material in order to prevent fibrous material from pulling away from the trim piece as taught by Takeuchi et al.

(11) Response to Argument

Appellants argue

[w]hile the sheet of glass fibre material is initially porous, it is placed “over the at least partially set elastomer 12” and subsequently “impregnated in stage 4 by a further two pot mix of moldable polyurethane . . . which sets to become rigid after it has embedded the fibres of the glass sheet 24.” The glass 24 is only placed over the at least partially set elastomer 12 before impregnation with the moldable polyurethane. Accordingly, before impregnation with the moldable polyurethane, the partly cellular high density lamina 12 does not bond finish face 13 to the sheet of glass fibre 24. Therefore, the requirement that “said molded foam material bonding said skin to said porous substrate,” is not met prior to impregnation of the sheet of glass fibre 24 with the moldable polyurethane. After the sheet of glass fibre 24 has been impregnated with the two pot mix of moldable polyurethane, the moldable polyurethane “sets to become rigid after it has embodied the fibres of the glass sheet 24.” (Brief, pages 5 and 6).

And

after impregnation of the sheet of glass fibres 24 with the moldable polyurethane, there is provided a resulting substrate that fails to meet the requirement for a porous substrate. Further, because the glass fibres are "embodied" within the polyurethane resin, the sheet of glass fibres constitutes neither a porous substrate, nor a substrate that is "held to a backside of the trim member that is opposite of the upholstery skin material." (Brief, page 6).

Appellants' arguments lack merit.

Appellants' claims do not require that the pores of the glass fibre substrate remain "open." To the contrary, dependent claim 2 specifically claims a trim piece wherein said substrate comprises a porous fiberous [sic] material having openings therein, where and said moldable foam material penetrates said openings and bonds to said porous material through said openings.

Further, in this regard, appellants' specification teaches:

The reinforcement mat 16 is porous in that it has openings provided between some of the fibers through which liquid foam-forming material may pass and also may adhere thereto as a fiberglass bonding agent. See page 5, lines 8-10.

The liquid reaction-injected moldable foam expands and penetrates into and through openings in the porous fibrous reinforcement mat 16. See page 7, lines 1-2.

Referring to FIG. 7, the interior trim 10' has the fibrous reinforcement mat 16' integrally formed within the semi-rigid polyurethane foam such that the reinforcement mat 16' is bonded to foam layer 14' on one side and a second foam layer 15 on the back side. This can be achieved in accordance with method 42 by allowing a substantial amount of the liquid foam to penetrate through reinforcement mat 16' to expand and cure between mat 16' and 12' and bond to mat 16', and leaving a remaining portion of the liquid foam on the back side of reinforcement mat 16' to likewise expand and cure and bond to the reinforcement mat 16'. This provides for a one-step method of manufacturing vehicle trim with a fiber reinforced backing of rigid support integrally formed within the molded foam and bonded thereto. See page 9, lines 7-15.

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Accordingly, the trim piece of Rohrlach et al., like appellants' trim piece, comprises a porous substrate wherein said substrate is held to the backside of the trim member that is opposite of the upholstery skin material.

Appellants argue

prior to feeding the molding material "onto the fiber-reinforcing material 1 and the porous sheet material 9," the reinforcing material 1 and sheet material 9 are only placed on the backside of the facing material. Thus, the fiber-reinforcing material 1 and porous sheet material 9 are not held to a backside of the trim member that is opposite of the upholstery skin material. After the molding material has been fed onto the fiber-reinforcing material 1 and the porous sheet material 9, the reinforcing material 1 and the porous sheet material 9 are no longer porous, and are embedded within the molding material, not "held to a backside of the trim member that is opposite of the upholstery skin material." (Brief, page 10).

Appellants' argument lacks merit.

As noted above, appellants' claims do not require that the pores of the substrate remain "open." Further, it is entirely unclear how the claimed trim piece can comprise a "molded foam material bonding said skin material to said porous substrate" without the pores of said substrate being at least partially filled with the foam material. Again, as noted above, that is exactly what is taught in appellants' specification, i.e., "moldable foam expands and penetrates into and through openings in the porous fibrous reinforcement mat." (Emphasis added).

Appellants argue

rather than depositing a molding material over a fiber-reinforcing material placed on an upholstery skin material as taught by the Takeuchi et al. patent, the claims require that the molding material extends between the upholstery skin material and a porous substrate. (Brief, page 12).

Appellants' argument lacks merit.

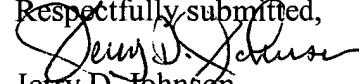
Applicants' claims do not exclude an interior trim member wherein the fibrous reinforcement (i.e., substrate) is embedded within the molded foam as taught by Takeuchi et al,

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i.e., the trim member of Takeuchi et al has a molded foam material extending between the upholstery skin and the fibrous reinforcement material.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

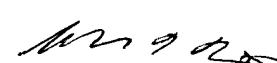

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